

**PROPRIETARY RIGHTS INTERNATIONAL**

**TO:** Mrs. Tammy Koontz, USPTO  
**FAX:** 1-703-305-8568  
**FROM:** C. Anne Whealy, Registration No. 39,419  
**DATE:** January 3, 2005  
**RE:** Serial number: 10/805,581  
Applicant: Heinrich Westhoff  
Title: Lobelia Plant Named 'Weslospot'

**THIS TRANSMISSION INCLUDE EIGHT PAGES AFTER THIS SHEET**

Dear Mrs. Koontz:

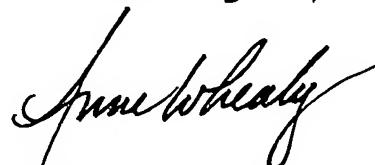
I have received the Notice of Allowance with the publication fee included. The Nonpublication Request was filed with the application. The official filing receipt for this case has not been received by our office. Would you please help me with this?

The following documents accompany this FAX:

Notice of Allowance and Fee(s) Due;  
Copy of return postcard;  
Cover letter that accompanied the application;  
Declaration; and  
Nonpublication Request that accompanied the application.

Thank-you very much for your assistance.

Kind regards,



P.O. Box 220, Tolar, Texas 76476  
TEL: 1-254-835-5150 FAX: 1-254-834-3571



## UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

## NOTICE OF ALLOWANCE AND FEE(S) DUE

7590 12/14/2004

Catherine Anne Whealy  
 Proprietary Rights International  
 P.O. Box 220  
 Tolar, TX 76476

EXAMINER	
KRAWCZEWCZ MYERS, LOUANNE C	
ART UNIT	PAPER NUMBER
1661	

DATE MAILED: 12/14/2004

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/805,581	03/20/2004	Heinrich Westhoff		1406

TITLE OF INVENTION: LOBELIA PLANT NAMED 'WESLOSPOT'

APPLN. TYPE	SMALL ENTITY	ISSUE FEE	PUBLICATION FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1100	\$300	\$1400	03/14/2005

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE REFLECTS A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE APPLIED IN THIS APPLICATION. THE PTOL-85B (OR AN EQUIVALENT) MUST BE RETURNED WITHIN THIS PERIOD EVEN IF NO FEE IS DUE OR THE APPLICATION WILL BE REGARDED AS ABANDONED.

## HOW TO REPLY TO THIS NOTICE:

## I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL should be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). Even if the fee(s) have already been paid, Part B - Fee(s) Transmittal should be completed and returned. If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

## UNITED STATES DEPARTMENT OF COMMERCE PATENT OFFICE

Receipt is acknowledged of the Plant Patent Application below *via Express Mail*. It will be considered in its order and you will be notified to its examination.

Commissioner of United States Patent & Trademark Office

GROUP NUMBER	FILING DATE	SERIAL NUMBER
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17302 U.S. PTO

10/805581

APPLICANT: HEINRICH WESTHOFF  
TITLE: LOBELIA PLANT NAMED 'WESLOSPOT'

032004

Pages of Description, Claims, & Abstract	Sheets of Photos	Declar.	Assign.	Nonpublication Request	Filing Fee, Assignment Recordation Fee
16	1	YES	YES	YES	\$570.00

**PATENT APPLICATION TRANSMITTAL LETTER &  
FORM FOR EXPRESS MAIL CERTIFICATION**

**EXPRESS MAIL LABEL NUMBER:** ET 593534485 US  
**DATE OF DEPOSIT:** MARCH 20, 2004

The Honorable Commissioner of Patents  
Alexandria, Virginia 22313-1450

Dear Commissioner:

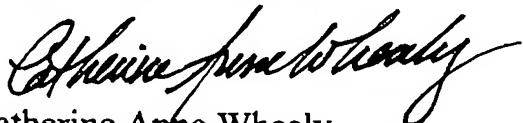
I hereby certify that the attached U.S. Plant Patent Application including the items listed below are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Patent Application, Commissioner of Patents, Alexandria, Virginia 22313-1450. Transmitted herewith for filing under 35 U.S.C. §111 and 37 CFR §1.53 is the plant patent application of:

**INVENTOR:** HEINRICH WESTHOFF  
**TITLE:** LOBELIA PLANT NAMED 'WESLOSPOT'

In connection with this application, the following are enclosed:

- 16 Pages of written description, claims and abstract.
- 1 Sheet of photographs, in color, in duplicate, as required by Rule 165.
- 1 Executed Declaration of the Inventor including Authorization of Agent.
- 1 Assignment of the Invention to Josef und Heinrich Westhoff Gartenbau-Spezialkulturen of Südlohn, Germany.
- 1 Nonpublication Request under 35 U.S.C. 122(b)(2)(B)(i).
- 1 Check in the amount of \$570.00 U.S. for the required U.S. Plant Patent application filing fee (\$530.00) and Assignment Recordation fee (\$40.00).

Respectfully submitted,

  
Catherine Anne Whealy  
Registration No. 39,419  
P.O. Box 220  
Tolar, Texas 76476  
TEL: 1-254-835-5150

## **DECLARATION FOR PATENT APPLICATION AUTHORIZATION OF AGENT**

As the below named Inventor, I hereby declare that:

My residence, post office address and citizenship are as stated by my name.

I believe I am the original and sole Inventor of the new and distinct plant variety which is claimed and for which a patent is sought on the invention entitled:

### **LOBELIA PLANT NAMED 'WESLOSPOT',**

the specification of which is filed herewith.

I hereby state that I have reviewed and understand the contents of the above-identified specification, including the claims.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

I state that I have discovered in a cultivated area and asexually reproduced the new and distinct plant variety.

I hereby state that the new and distinct plant variety has not been publicly available nor sold for more than one year prior to the filing of this U.S. Plant Patent application.

I hereby appoint the following agent to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith: Catherine Anne Whealy, Registration No. 39,419. Address all correspondence to Catherine Anne Whealy, Proprietary Rights International, P.O. Box 220, Tolar 76476. Address all telephone calls to Catherine Anne Whealy at 1-254-835-5150 or 1-817-219-0777.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 of any foreign application(s) for patent or inventor's certificate listed below and have also identified below any foreign application for patent or inventor's certificate having a filing date before that of the application on which priority is claimed:

Prior Foreign Applications:

Location	Applic. date	Applic. number	Status	Priority claimed
Europe	February 3, 2003	2003/0198	Pending	NO

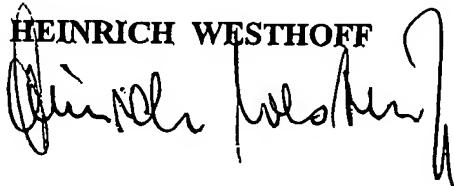
I hereby claim the benefit under Title 35, United States Code, §120, of any United States application(s) listed below and insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States Applications in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose material information as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

(Applic. No.) (File Date) (Status - patented, pending, abandoned)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Full Name of Inventor:

HEINRICH WESTHOFF



Inventor's Signature:

Date: 11th nov. 2003

Country of citizenship: Germany

Residence Address: Fresenhorst 22-24, D-46354 Südlohn 1, Germany

Post Office/Mailing Address: Fresenhorst 22-24, D-46354 Südlohn 1, Germany

<b>NONPUBLICATION REQUEST UNDER 35 U.S.C. 122(b)(2)(B)(i)</b>	First Named Inventor	<b>WESTHOFF, Heinrich</b>
	Title	<b>Lobelia Plant Named 'WESLOSPOT'</b>

I hereby certify that the invention disclosed in the attached application has not and will not be the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

Signed: (Handwritten signature) Date: 11th. nov. 2003  
Name: **HEINRICH WESTHOFF, Applicant**

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application upon filing.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant must notify the United States Patent & Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).